



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Monday, November 7, 2011

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:15 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Philip M. Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

20110988

Marietta Youth Council

Mayor Steve Tumlin and Ms. Kibbie DeJarnett and Ms. Rokovunisei, Marietta High School Student Council Faculty Advisors introduce the Marietta Youth Council for swearing-in and welcome.

Katie Ault	Alex Kinstle
Courtney Carter	Jacob Pope
Benjamin DeJarnett	Janei Smiley
Brooke Donnelly	Lily Tischner
Hank Henderson	Natalie Walker
Kaila Yancey	

Oath Administered**20111016 Emphasis Award Presentation**

Presentation of an award to Ms. Daphne Bradwell, Manager-Housing Choice Voucher Program and Ms. Hilda Bishop, Housing Specialist, for the 2011 Emphasis Software Pioneer of the Year.

Presented**20110989 Fire Safety Poster Contest Winners**

Presentation of Fire Safety Poster Contest Winners for Fire Prevention Week.

1st Place-	Judith Boraz-Martinez	Hickory Hills Elementary
2nd Place (tie)-	McCartney Holland	Mount Paran Christian
	Sarabeth McClure	The Walker School
3rd Place-	Wendy Navichoque	Sawyer Road Elementary

Presented**PROCLAMATIONS:****ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Tumlin called upon Mayor Pro tem, Johnny Sinclair, to preside over this portion of the meeting. Mayor Pro tem Sinclair briefly explained the consent agenda process.

Council member Goldstein asked to be shown as voting against agenda items 20110994 October 12, 2011 regular meeting minutes and 20110985 Canton Road and Railroad Bridge over Cobb Parkway.

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

with the following exceptions:

Council member Goldstein voting against agenda items 20110994 and 20110985.

Council member Goldstein abstaining on agenda item 20110969.

Council members Lewis, Sinclair and Goldstein voting against agenda item 20110916.

MINUTES:

*** 20110994 Regular Meeting - October 12, 2011**

Review and approval of the October 12, 2011 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 - 0

Approved

Voting Against: Philip M. Goldstein

*** 20110995 Special Meeting - October 26, 2011**

Review and approval of the October 26, 2011 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

Council member Jim King, Chairman of the Public Works Committee, brought forward two property acquisitions that the Public Works Director requested to be added to the agenda.

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add an agenda item authorizing acceptance of the donated property at 680 S Marietta Parkway and 800 S

Marietta Parkway from Cobb County for the purpose of the Kennesaw Mountain to Chattahoochee River Trail - South Section Project. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
(See agenda item 20111057)

A motion was made by Council member King, seconded by Council member Goldstein, to suspend the rules of order to add an agenda item authorizing acquisition of the property at 619 Kiowa Drive from Harmony Lindbergh, LP for the purpose of the Fairground Street Improvement Project - Allgood Road to North Marietta Parkway in exchange for \$62,810.00 with the following stipulations:

- 1. Allow property Owner to construct 4 large temporary signs during construction period and, if requested, an administrative variance for the setbacks of the new permanent signs will not be unreasonably withheld.*
- 2. Driveway entrances to be constructed of concrete instead of asphalt.*
- 3. Existing wrought iron fencing shall be removed by the City and stored on property at a mutually acceptable location.*
- 4. The temporary easement shall have a duration of not more than 24 months from closing. There shall be an option to extend the easement in 3 month increments for an additional \$5,000.00 per extension.*

The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
(See agenda item 20111056)

20110892**Z2011-15 RaceTrac Petroleum, Inc. 1400 Powder Springs Road**

Z2011-15 [REZONING] RACETRAC PETROLEUM, INC. request rezoning for property located in Land Lot 02600, District 19, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia and being known as 1400 Powder Springs Street from R-2 (Single Family Residential - 2 units/acre) to CRC (Community Retail Commercial). Ward 2.

Mayor Tumlin opened the public hearing. City Attorney Douglas Haynie explained the rules of order and swore in those wishing to speak.

Kevin Moore, attorney for the applicant, requested rezoning for property located at 1400 Powder Springs Street from R-2 (Single Family Residential - 2 units/acre) to CRC (Community Retail Commercial), to be developed for a RaceTrac gas station. Mr. Moore submitted a letter of stipulations dated October 27, 2011, which made reference to the proposed buffers and lighting for the proposed building. He also presented a site plan showing the building elevations and access points to the property from Powder Springs Road and Murray Circle.

Several Cobb County residents from the adjacent neighborhood spoke in opposition to the proposed development. Some of the main concerns were increased traffic to the neighborhood, loitering around the gas station, noise and bright lights as a result of the 24-hour operation, and water run-off from the

property to the neighborhood. Those residents speaking in opposition include:

Ron Ridgeway, who resides at 1027 Wilburn Drive.

Michael Castro, who resides at 1080 Murray Circle.

Anil Roy, who resides at 1212 Murray Circle.

Erin Pruitt and Steve Godfrey, who resides at 1125 Wilburn Drive.

Alison Lanier and Pete Horning, who resides at 1469 Mel

Kevin Moore addressed some of the concerns of the residents such as water run-off and traffic issues. Mr. Moore also mentioned that the large tract of land located behind the proposed building would not be developed at this time and would come back to Council for review and approval.

The public hearing was closed.

In depth discussion was held by Council. There was general agreement to table this matter to allow time for the applicant to meet with the adjacent property owners to address their concerns.

Motion to table this matter until the December 14, 2011 City Council meeting, with notification sent to the residents within 200 ft of the property.

A motion was made by Council member Chalfant, seconded by Council member Sinclair, that this matter be Tabled. The motion carried by the following vote:

Vote: 7 - 0 - 0

Tabled

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

*** 20110916 Housing Choice Voucher Program Administrative Plan**

Approval of a Resolution authorizing the revisions to the Housing Choice Voucher Program Administrative Plan.

This Matter was Approved on the Consent Agenda.

Vote: 4 - 3 - 0

Approved

Voting Against: Annette Lewis, Johnny Sinclair and Philip M. Goldstein

* **20110959 Military Zone in the City of Marietta**

Motion approving a request for a letter from Mayor and City Council to the Department of Community Affairs to designate Census Tract 308 as a Military Zone for job tax credits.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

2. Finance/Investment: Annette Lewis, Chairperson

* **20110956 Franklin Road Early Learning Initiative**

[Ord 7564](#)

Approval of an Ordinance amending the Fiscal Year 2012 Weed and Seed Fund to receive and appropriate \$75,000 from the United Way for the Partners Assuring Childhood Education (PSCE) Initiative.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110961 GMA Annual Mayors' Day Conference**

Motion to approve travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) Annual Mayors' Day Conference, January 21-23, 2012 in Atlanta, Georgia.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110976 Prepaid Wireless Service Fee**

[Ord 7565](#)

Approval of Ordinance allowing for the collection of the 9-1-1 prepaid wireless fee from all retailers inside the City selling prepaid cell phones in accordance with O.C.G.A. § 46-5-134.2.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

20110950 2012 City Council Meeting Dates

Approval of a Resolution establishing the City Council meeting dates and approval of the committee meeting calendar for 2012.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110975 2012 Legislative Agenda**

Motion approving the City of Marietta's 2012 Legislative Agenda to the Georgia State Legislature.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

5. Personnel/Insurance: Van Pearlberg, Chairperson

*** 20110987 Reorganization of Public Works/Operations**

[Ord 7566](#)

Approval of an Ordinance amending the City of Marietta and Board of Lights and Water position allocations chart and position classification and compensation plans for the 2012 fiscal year.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

*** 20110962 Standard Operating Procedures**

Motion approving revisions to Standard Operating Procedures A012 Mission Statement, A020 Use of Force, A044 Uniforms, Equipment & Department Property, A047 Internal Affairs, A051 Media and Public Relations, A070 Departmental Forms and Reports, A076 Personnel Early Warning System, P010 Patrol Operations, P020 Missing Persons, P025 Mental Illness, P042 Roadblocks, P048 Vehicle Impounds, and S033 Informants.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

7. Public Works Committee: Jim King, Chairperson

*** 20110969 Transportation Enhancement (TE) Project Memorandum of Understanding**

Motion to approve Memorandum of Understanding with the Georgia Department of Transportation for Transportation Enhancement (TE) projects for Atherton

Square, Cemetery Trail and Kennesaw Mountain to Chattahoochee River Gap Trail.

Council member Goldstein previously disclosed that he and/or his family members own, and/or an entity owned by him or family members own property adjacent to McNeel Alley next to Atherton Square.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved

Abstaining: Philip M. Goldstein

*

20110985

Canton Road and Railroad Bridge over Cobb Parkway

Motion authorizing a variance from the Underground Utilities Ordinance 5-4-160, allowing utilities to relocate aerial utilities along the north side of Industrial Park Drive from Cobb Parkway traveling approximately 650 feet east to the Georgia Power Transmission Line as required for the GDOT Canton Road Bridge and Railroad Bridge Replacement Project.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 – 0 Approved

Voting Against: Philip M. Goldstein

APPEARANCES:

OTHER BUSINESS:

20110982

V2011-33 [Variance] Traton Homes (Rockford Township) Land Lots 00360, 00370, and 00380, District 19.

Motion to approve the following variances for property located in Land Lots 00360, 00370, and 00380, District 19 being known as Rockford Township. Variance to reduce required tree density from 692.5 units to 519.6 units [Section 712.08 (D) (4)]; variance to provide two 3" trees in the front yard of each lot in lieu of the requirements for planted border areas listed under Table G-1. [Section 712.08 (G) (2) (a)].

Mayor Tumlin previously disclosed that in 2009 political contributions were reported from Traton and its principals in the aggregate of over \$250. Also, Smith, Tumlin, McCurley & Patrick, P.C., represented Mr. John Elliott in the sale and separation of the Smith Manning property.

Council member Sinclair previously disclosed that in 2009 he received a political contribution of greater than \$250 from Mr. Bill Poston of Traton Corporation. Also, he sold Mr. Will Etheredge, the neighboring property owner at the Smith Manning House, his house. In addition, he was the listing agent at Rockford for Mr. John Elliott, the previous owner, in his capacity as a Realtor at Harry Norman Realtors, but the project went bankrupt before they sold anything.

Mayor Tumlin called forward those wishing to speak.

Development Services Director Brian Binzer presented information regarding the variance request for property being known as Rockford Township. The request includes a variance to reduce required tree density from 692.5 units to 519.6 units and a variance to provide two 3" trees in the front yard of each lot in lieu of the requirements for planted border areas.

Chris Polson with Traton Homes spoke regarding the changes to the tree plan related to buffer area and individual tree requirements for each property. Members from the Lee's Crossing subdivision also spoke, expressing concern regarding the proposed tree plan and requested variances.

Discussion was held and there was general agreement that individual tree requirement for each property is met in order to obtain a Certificate of Occupancy (CO) for any additional property sold. It was also suggested that the applicant meet with members of the Lee's Crossing Homeowner Association to address their concerns.

A motion was made to table this matter until the December 14, 2011 City Council meeting.

The motion was made by Council member Chalfant, seconded by Council member Goldstein, that this matter be Tabled. The motion carried by the following vote:

Vote: 6 - 1 - 0 Tabled

Voting Against: Annette Lewis

UNSCHEDULED APPEARANCES:

Mr. Richard Capriola, attorney for Mr. Waleed Jaraysi, spoke regarding property located at 555 Commerce Ave and owned by Mr. Jaraysi. Mr. Capriola presented a proposal that was drafted, with the help of City Attorney Doug Haynie, that he felt would address the concerns of City Council.

In depth discussion was held by Council regarding the request as it relates to removal of the slab, the timeframe for the demolition and the settlement of attorneys' fees.

Mayor Tumlin expressed concern regarding Council member Goldstein's participation in the discussion regarding the settlement of attorneys' fees for a lawsuit brought against the City. Mayor Tumlin felt there was a conflict of interest with Council member Goldstein's participation.

The City Attorney was directed to negotiate and work out the specific details of the agreement as it relates to attorneys' fees and the timeframe for the demolition.

20111057 680 S Marietta Parkway and 800 S Marietta Parkway

Motion authorizing acceptance of the donated property at 680 S Marietta Parkway and 800 S Marietta Parkway from Cobb County for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - South Section Project.

A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20111056 619 Kiowa Drive

Motion authorizing acquisition of the property at 619 Kiowa Drive from Harmony Lindbergh, LP for the purpose of constructing the Fairground Street Improvement Project - Allgood Road to North Marietta Parkway in exchange for \$62,810.00 with the following stipulations:

1. Allow property Owner to construct 4 large temporary signs during construction period and, if requested, an administrative variance for the setbacks of the new permanent signs will not be unreasonably withheld.
2. Driveway entrances to be constructed of concrete instead of asphalt.
3. Existing wrought iron fencing shall be removed by the City and stored on property at a mutually acceptable location.
4. The temporary easement shall have a duration of not more than 24 months from closing. There shall be an option to extend the easement in 3 month increments for an additional \$5,000.00 per extension.

A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

ADJOURNMENT:

The meeting was adjourned at 10:28 p.m.

Date Approved: 12/14/2011

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk